

JURY TRIAL DEMANDED

IN THE DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

COSMOS GRANITE CENTRAL LLC,      )  
  )  
Plaintiff,                          )  
  )      Case No. 4:18-cv-01002 CDP  
Vs.                                  )  
  )  
RIVER CITY GRANITE & STONE      )  
WORKS, LLC, and                    )  
ROBERT NAUCKE                     )  
  )  
Defendants.                        )  
  )

**ANSWER OF DEFENDANT RIVER CITY GRANITE & STONE WORKS, LLC**

COMES NOW, Defendant River City Granite & Stone Works, LLC (hereinafter RCGSW) by and through its attorney of record and hereby provides the following answer to Plaintiff's Complaint

1.      Defendant RCGSW is without sufficient information to admit or deny the allegations contained in Paragraph 1 of the Complaint, and therefore must deny the same.
  
2.      Defendant RCGSW is without sufficient information to admit or deny the allegations contained in Paragraph 2 of the Complaint, and therefore must deny the same.

3. Defendant RCGSW admits Paragraph 3 of the Complaint.
4. Defendant RCGSW admits there is diversity of citizenship but denies all remaining allegations in Paragraph 4 of the Complaint.
5. Defendant RCGSW denies Paragraph 5 of the Complaint.
6. Defendant RCGSW is without sufficient information to admit or deny the allegations contained in Paragraph 6 of the Complaint, and therefore must deny the same.
7. Defendant RCGSW denies the allegations in Paragraph 7 of the Complaint.
8. Defendant RCGSW denies the allegations in Paragraph 8 of the Complaint.
9. Defendant RCGSW denies the allegations in Paragraph 9 of the Complaint.
10. Defendant RCGSW denies the allegations in Paragraph 10 of the Complaint.

11. Defendant RCGSW denies the allegations in Paragraph 11 of the Complaint.

12. Defendant RCGSW denies the allegations in Paragraph 12 of the Complaint.

13. Defendant RCGSW admits Paragraph 13 to the extent that demands for payment have been made; However, Defendant denies all remaining allegations contained in Paragraph 13 of the Complaint.

#### **COUNT I - BREACH OF CONTRACT**

14. Defendant RCGSW reasserts all of its previous answers as its answers for Paragraph 14 of the Complaint.

15. Defendant RCGSW denies the allegations in Paragraph 15 of the Complaint.

16. Defendant RCGSW denies the allegations in Paragraph 16 of the Complaint.

17. Defendant RCGSW denies the allegations in Paragraph 17 of the

Complaint.

18. Defendant RCGSW denies the allegations in Paragraph 18 of the Complaint.

WHEREFORE having fully answered Count I, Defendant River City Granite & Stone Works, LLC prays that this Court dismiss Plaintiff's Count I with Plaintiff to bear costs herein, and for such other relief as this Court deems just and proper under the circumstances.

#### **COUNT II- ACTION ON ACCOUNT**

19. Defendant RCGSW reasserts all of its previous answers as its answers for Paragraph 19 of the Complaint.

20. Defendant RCGSW denies the allegations in Paragraph 20 of the Complaint.

21. Defendant RCGSW denies the allegations in Paragraph 21 of the Complaint.

22. Defendant RCGSW denies the allegations in Paragraph 22 of the Complaint.

23. Defendant RCGSW denies the allegations in Paragraph 23 of the Complaint.

24. Defendant RCGSW admits that demands have been made, but denies all remaining allegations in Paragraph 24 of the Complaint.

25. Defendant RCGSW denies the allegations in Paragraph 25 of the Complaint.

26. Defendant RCGSW denies the allegations in Paragraph 26 of the Complaint.

WHEREFORE having fully answered Count II, Defendant River City Granite & Stone Works, LLC prays that this Court dismiss Plaintiff's Count II with Plaintiff to bear costs herein, and for such other relief as this Court deems just and proper under the circumstances.

### **COUNT III - QUANTUM MERUIT**

27. Defendant RCGSW reasserts all of its previous answers as its answers for Paragraph 27 of the Complaint.

28. Defendant RCGSW denies the allegations in Paragraph 28 of the

Complaint.

29. Defendant RCGSW denies the allegations in Paragraph 29 of the Complaint.

30. Defendant RCGSW denies the allegations in Paragraph 30 of the Complaint.

31. Defendant RCGSW denies the allegations in Paragraph 31 of the Complaint.

WHEREFORE having fully answered Count III, Defendant River City Granite & Stone Works,LLC prays that this Court dismiss Plaintiff's Count III with Plaintiff to bear costs herein, and for such other relief as this Court deems just and proper under the circumstances.

#### **COUNT IV - BREACH OF GUARANTEE**

Defendant River City Granite & Stone Works, LLC makes no answer to Count IV as this count is directed to another defendant. However, if called upon and required to answer, Defendant RCGSW denies all allegations in Count IV.

#### **AFFIRMATIVE DEFENSES**

COMES NOW Defendant River City Granite & Stone Works, LLC provides the following affirmative defenses to Plaintiff's Complaint.

1. Plaintiff fails to state a claim upon which relief can be granted.
2. Plaintiff has failed to mitigate its damages.
3. Plaintiff's claim for monetary damages fails to take into consideration the payments made by Defendants, and as such must fail.
4. The alleged Guarantee attached as part of Exhibit 1, fails to state the account, the debt, and/or the business for which Defendant Naucke purportedly guaranteed payment; and as such, is legally deficient and must fail.
5. Venue in the Eastern District of Missouri is improper as all suits arising out of the purported Guarantee must be filed in Du Page County, Illinois.

WREFORE having fully answered, Defendant River City Granite & Stone Works, LLC prays that this Court dismiss Plaintiff's Complaint with Plaintiff to bear costs herein, and for such other relief as this Court deems just and proper under the circumstances.

*Defendant River City Granite & Stone Works, LLC demands a trial by jury.*

Respectfully submitted,

By: /s/Steven A. Trefts  
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Attorney for Defendant  
River City Granite & Stone Works, LLC

**CERTIFICATE OF SERVICE**

The undersigned states a copy of the foregoing document was electronically mailed to Plaintiff's attorney of record, Joseph Trad - [jtrad@lewisrice.com](mailto:jtrad@lewisrice.com) and Justin Ludendorff - [Ludendorff@lewisrice.com](mailto:Ludendorff@lewisrice.com) on this 10<sup>th</sup> day of July 2018.

/s/Steven A. Trefts